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Monsanto

—W DEPARTMENT

Monsanto Company
800 N. Lindbergh Boulevard
St. Louis, Missouri 63167
Phone: (314) 694-1000

August 24, 1994

Via Federal Express

Marsha A. Adams
5HMS-5J Responsible Party Search
Section
U.S. Environmental Protection
Agency Region V
77 West Jackson Boulevard
Chicago, IL 60604-3590

Re: Sauget Area I
Sauget, Illinois

Dear Ms. Adams:

Monsanto Company ("Monsanto") hereby submits its initial response to the U.S. Environmental Protection Agency (EPA) Request for Information Pursuant to Section 104(e) of CERCLA for the Sauget Area I in Sauget, Illinois, dated July 13, 1994. (See Attachment 1). Monsanto received the information request on July 18, 1994, and by letter dated July 28, 1994 (See Attachment 2), made arrangements for this initial response on several subject areas as identified in the referenced correspondence.

In response to the EPA's information request, we disagree with EPA's overly broad assumption of authority which it asserts is conferred by the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) 42 U.S.C. § 9601, et. seq. Monsanto also objects to the overly broad scope of the questions and definitions included within EPA's information request and to the unreasonable time period covered--dating back almost a century.

However, consistent with Monsanto's policy of cooperation with government agencies, we are responding to the pertinent, non-privileged portions of EPA's information request. At the same time we reserve all objections and defenses to EPA's statement of authority or the scope of information requested.

In accordance with our July 28, 1994 correspondence, we are, at this time, providing information on the following initial matters:

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1. Site G. Monsanto has previously responded to information requests, both from EPA as well as Illinois Environmental Protection Agency (IEPA), which covered this site. By letter dated July 2, 1987, Monsanto advised EPA that, based upon record reviews and interviews of past Monsanto personnel, whose duties related to waste handling during the relevant time period, Monsanto had located no records or other information to the effect that any Monsanto hazardous wastes were disposed of at Site G. (See Attachment 3.) Then, in response to a subsequent request for information from IEPA, Monsanto, by letter dated October 24, 1989, supplied documentation on unknown sites in Area I. (See Appendix G of Attachment 4.)

As noted in these prior responses, Monsanto has no documentation as to the source of waste materials now reported at Site G. However, in light of the concerns expressed by EPA as to the nature of materials which are allegedly present on Site G, we have compiled a series of Material Safety Data Sheets (MSDS) for most of those constituents which were listed as being present on Site G in the 1989 Ecology and Environment (E&E) study conducted on behalf of IEPA. (See Attachment 5.) The MSDS on these materials reflect information as prepared either by Monsanto or by another company (if our files did not contain a Monsanto MSDS).

2. Cerro Litigation. Monsanto's production of documents during the course of Cerro v. Monsanto Company, U.S.D.C. SD IL, Docket No. 92-CV-204-WDS, was voluminous. Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Monsanto produced these documents to Cerro for inspection as they were kept in the usual course of business.

Those same documents, to the extent that they reference Area I, will be available for review and copying by EPA at Monsanto's offices, 800 North Lindbergh, St. Louis, Missouri 63167, at a mutually agreeable date. Please contact the undersigned to make the necessary arrangements. Pursuant to 40 CFR 2.203(b), a confidential business information claim is anticipated at least on certain documents which will be made available for review. Reasonable procedures to protect such information should be able to be implemented without interference of the document review process.

Monsanto does not intend to produce documents obtained from Cerro as it is our understanding that Cerro will arrange for appropriate production of its own documents. Monsanto has made Freedom of Information Act (FOIA) and third party production requests in connection with the Cerro litigation and does intend to provide EPA with access to those documents if they pertain to Area I.

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3. Other Potentially Responsible Parties (PRPs). Monsanto has limited information as to the identity of other PRPs. Its information, to the extent it exists, is consistent with the information obtained pursuant to FOIA and discussions in the E&E study. (See Attachment 6.)

In light of the age of the alleged transactions involved and the broad scope of information sought by EPA, Monsanto must request the assistance of the EPA in locating additional information responsive to EPA's information request concerning Area I. Accordingly, if EPA has evidence or information linking Monsanto to Area I, please provide it as soon as possible. To the extent that this request must be treated as being made pursuant to FOIA, please do so. Failure to provide such information may inhibit Monsanto's ability to fully identify and locate sources of information responsive to the EPA's information request.

If you have any questions concerning Monsanto's position in this matter, please contact the undersigned at 314/694-1278.

Very truly yours,


Stephen P. Krchma
Environmental Counsel

Attachments

cc (by mail): Thomas J. Martin
Assistant Regional Counsel
U.S. EPA Region V (w/o Attachments)

Freedom of Information Officer
Region V (w/o Attachments)

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BY FEDERAL EXPRESS

Ms. Marsha A. Adams

5HSM-5J

Responsible Party Search Section

USEPA Region V

77 West Jackson Boulevard

Chicago, Illinois 60604-3590

**Re: Request for Information Pursuant to Section 104(e) of CERCLA for
 the Saugat Area 1 Sites in Saugat Illinois**

Dear Ms. Adams:

This office represents Cerro Copper Products Company in conjunction with the above referenced information request. In accordance with agreements reached with Thomas J. Martin of the Office of Regional Counsel, Cerro is required to make an initial production which is to consist of information in Cerro's possession relating to Site G, information relating to other parties potentially responsible for the Area 1 Sites and documents that Cerro has gathered in conjunction with the lawsuit styled Cerro Copper Products Company v. Monsanto Company, currently pending in the United States District Court for the Southern District of Illinois. The balance of Cerro's response to the information request will be due on October 17, 1994.

In accordance with this agreement, we enclose as Attachment 1 documents that Cerro has collected relating to Site G. We enclose as Attachment 2 documents that Cerro has collected relative to other parties potentially responsible for the Area 1 sites. We enclose as Attachment 3 indices either to documents that Cerro has produced to Monsanto from its own files

Ms. Marsha A. Adams

August 26, 1994

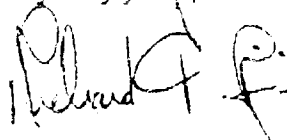
Page 2

or collected pursuant to third party subpoenas or FOIA requests. We note that certain documents included in these indices may relate to Site G and/or other PRPs, and such documents have not been separately produced, although we would be happy to do so. We will make the documents covered by the indices available for inspection and copying at a mutually convenient time and place.

We note in this regard that the information request calls for production of all documents in Cerro's possession relating to the litigation, including documents obtained in discovery. While Cerro has obtained through discovery a large number of documents from Monsanto which are responsive to your information request, we are currently prohibited from producing those documents by the terms of a Protective Order entered by the Court on November 17, 1993, a copy of which order we previously forwarded to Mr. Martin. Cerro takes very seriously its obligations under section 104(e) of CERCLA to produce responsive information in its possession, custody or control. To that end, Cerro has proposed to Monsanto that both companies agree to waive the Protective Order's provisions precluding disclosure so that each company can respond fully to the information request. Monsanto has not yet responded to this proposal. Production of documents covered by the Protective Order without a waiver by Monsanto or a modification of the Order could place Cerro in contempt of Court. Accordingly, we respectfully request that the Agency excuse Cerro from producing to the Agency those documents that it has received from Monsanto under a designation of confidentiality pursuant to the Protective Order. If the agency is unable to so excuse Cerro, then we request that you so advise us as soon as possible so that, in the event we are unable to reach an agreement with Monsanto, we can advise the Court of the outstanding Agency request and take whatever steps are necessary to assure that we can meet our obligations both to the Agency under section 104 and to the Court under its Protective Order.

We thank you for your attention to this matter.

Very truly yours,



Richard F. Ricci

RFR:ljc

cc: Thomas Martin, Esq.

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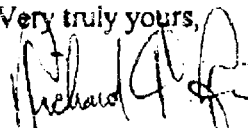
VIA TELECOPY

Thomas Martin, Esq.
United States Environmental Protection Agency, Region IV
CN 29A, 77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Re: Sauget Sites Information Request

Dear Mr. Martin:

In accordance with our telephone conversation, I am enclosing the signature from the Protective Order between Cerro and Monsanto in their pending litigation. As you will note, the Order was entered by Judge Stiehl on November 17, 1993. If I can be of any further assistance, do not hesitate to call.

Very truly yours,

Richard F. Ricci

RFR:ljc
Enclosures

